

Dear Reader:

I am pleased to celebrate and reflect upon the last decade of progress identifying and fighting the phenomenon of modern slavery. Ten years ago, the United Nations negotiated the international standards against trafficking in persons and the United States enacted the Trafficking Victims Protection Act. Since then, the international community has witnessed tangible progress in the effort to end the scourge of trafficking in persons. More victims have been protected, more cases have been successfully prosecuted, and more instances of this human rights abuse have been prevented.

Countries that once denied the existence of human trafficking now work to identify victims and help them overcome the trauma of modern slavery, as well as hold responsible those who enslave others. Although progress has undoubtedly been made against this global phenomenon, there is more work to do. This annual assessment is an opportunity to diagnose the world's efforts to implement the "3P" paradigm of prevention, protection, and prosecution. Based on lessons learned, we must work together with civil society, the corporate sector, and across governments through the "fourth P" – partnership – toward a world in which every man, woman, and child is safe from the hands of traffickers and can realize their God-given potential.

The 10th annual Trafficking in Persons Report outlines the continuing challenges across the globe, including in the United States. The Report, for the first time, includes a ranking of the United States based on the same standards to which we hold other countries. The United States takes its first-ever ranking not as a reprieve but as a responsibility to strengthen global efforts against modern slavery, including those within America. This human rights abuse is universal, and no one should claim immunity from its reach or from the responsibility to confront it.

This year's report highlights several key trends, including the suffering of women and children in involuntary domestic servitude, the challenges and successes in identifying and protecting victims, and the need to include anti-trafficking policies in our response to natural disasters, as was evident in the aftermath of this year's earthquake in Haiti.

Ending this global scourge is an important policy priority for the United States. This fluid phenomenon continues to affect cultures, communities, and countries spanning the globe. Through partnerships, we can confront it head-on and lift its victims from slavery to freedom.

Sincerely,



Hillary Rodham Clinton

Dear Reader:

As we celebrate the timeless words of our Constitution's 13th Amendment – that “[n]either slavery nor involuntary servitude ... shall exist” – we recognize that such absolute guarantees need to be constantly enforced lest they only be words on a page. So too in the international arena; Article 4 of the Universal Declaration of Human Rights and the United Nations' Protocol to Prevent, Suppress, and Punish Trafficking in Persons (Palermo Protocol) do not enforce themselves. Rather, it takes governments and civil society working in partnership to identify victims and punish the traffickers who would enslave them.

The call that went forth from Palermo in December of 2000 is being heard; 116 countries have enacted legislation to prohibit all forms of trafficking. This last year saw more victims identified, more services provided, and more traffickers convicted than any year in history. Yet enslaving someone still carries too little risk. Remediation, fines, or warnings are too small a price to pay – those who would profit by stealing freedom should lose their own. Fighting trafficking commands too few resources, too little vision, and as a result, too few outcomes.

Millions continue to toil in modern forms of slavery. Disturbing trends are coming into focus, such as the feminization of migration. For example, in the last three years, one source country in Southeast Asia has seen the demographics of its outgoing migrants switch from majority male to more than 70 percent female. Given the unscrupulous nature of labor recruiting, this trend leads to the feminization of labor trafficking, once simply thought of as the male counterpoint to sex trafficking. But like their brothers, husbands, and sons, women are trapped in fields, factories, mines, and restaurants, often suffering the dual demons of forced labor and sexual assault. As we more fully understand the plight of women who are victims of labor trafficking, we continue to see the devastating effects of sex trafficking, where services for survivors are as rare as programs that address the demand for their victimization. And if they are found, women are repatriated as a matter of first instance, or are locked in “shelters” that look more like prisons than the safe haven that a survivor needs.

Despite these sobering trends, this 10th anniversary is not a time to despair at the scope of this problem; it is a time to honor progress and re-dedicate ourselves to the fight. We can celebrate triumphs that are no less great because they did not solve the whole problem; we must recognize needs that are no less pressing because others were met. In that spirit, let this be the year that we imagine a world without slavery. Let this be the year that we come together in partnership to deliver on that vision.

Sincerely,

A handwritten signature in blue ink, reading "Luis CdeBaca". The signature is fluid and cursive, with the first name "Luis" and last name "CdeBaca" clearly legible.

Ambassador Luis CdeBaca

Introduction: 10 Years of Fighting Modern Slavery

The 2010 Trafficking in Persons (TIP) Report marks the 10th anniversary of key milestones in the fight against modern slavery. In 2000, the United States enacted the Trafficking Victims Protection Act (TVPA), and the United Nations adopted the Protocol to Prevent, Suppress, and Punish Trafficking in Persons, Especially Women and Children, also known as the Palermo Protocol. Since then, the world has made great strides in combating this ultimate exploitation – both in terms of what we know about this crime and how we respond.

The Palermo Protocol focused the attention of the global community on combating human trafficking. For the first time, an international instrument called for the criminalization of all acts of trafficking – including forced labor, slavery, and slavery like practices – and that governmental response should incorporate the “3P” paradigm: **prevention**, criminal **prosecution**, and victim **protection**. Over 10 years, governments worldwide have made appreciable progress in understanding a number of realities about human trafficking: people are in situations of modern slavery in most countries; trafficking is a fluid phenomenon responding to market demands, weakness in laws and penalties, and economic and development disparities. More people are trafficked for forced labor than for commercial sex. The crime is less often about the flat-out duping and kidnapping of naïve victims than it is about the coercion and exploitation of people who initially entered a particular form of service voluntarily or migrated willingly. Trafficking can occur without movement across borders or domestically, but many countries and commentators still assume some movement is required. Men comprise a significant number of trafficking victims. And traffickers often use sexual violence as a weapon against women to keep them in compelled service, whether in a field, a factory, a brothel, a home, or a war zone.

The “3P” paradigm is an interlocking one. It is not enough to prosecute traffickers if we do not also provide assistance to the survivors and work to ensure that no one else is victimized. No country has yet attained a truly comprehensive response to this massive, ever increasing, ever changing crime. Ten years of focused efforts is the mere infancy of this modern movement; many countries are still learning about human trafficking and the best responses to it.

Promising practices, task forces, and coordinating bodies’ national plans of action must be implemented on the ground, and local innovations must be supported and amplified by central governments. The vast majority of the millions held in modern slavery have yet to benefit from any progress; every country must do more to fulfill the promise of the Palermo Protocol.

Last year, the world imported and exported billions of dollars in products tainted by forced labor in manufacturing and raw materials procurement, according to the International Labour Organization (ILO). Governments knowingly and unknowingly deported trafficking victims and failed to provide victims shelter and reintegration services, which led to undercutting investigations and delaying the rehabilitation of victims. They continued to struggle with poorly constructed immigration laws that increased the vulnerability of migrant populations to trafficking.

When reviewing the trafficking assessment for each country, it is critical to remember that these assessments are based on compliance with *minimum* standards set forth in the TVPA, as amended – what the U.S. government considers the floor for engagement rather than the ceiling.

Fighting human trafficking is not a static exercise. A trafficking law passed last year must be implemented and improved this year. The lessons learned from last year's prosecutions should inform and improve this year's law enforcement response. Wide disparities between numbers of trafficking victims identified and trafficking offenders prosecuted should be reviewed with the goal of improving the capacity of law enforcement responders to deliver justice for victims. Although numbers of trafficking prosecutions and convictions are important indicators of progress, the quality and impact of counter-trafficking law enforcement efforts are more significant.

The missed opportunities for compassionate and effective victim identification must serve as a clarion call to ensure that this year, there is a proactive approach to victim identification and assistance, upholding the Palermo Protocol and the TVPA's guarantees of justice for every victim.

The 2010 TIP Report is a diagnostic tool reflective of efforts on the ground now. It is neither a condemnation nor a reprieve; nor is it a guarantee of next year's ranking. Indeed, this year's report reflects upgrades for 23 countries in recognition of long overdue results and downgrades for 19 countries demonstrating sparse victim protections, desultory implementation, or inadequate legal structures.

Most countries that deny the existence of victims of modern slavery within their borders are not looking, trying, or living up to the mandates of the Palermo Protocol and the demands of our common humanity. There is no shame in addressing a problem of this magnitude; the shame lies in ignoring it.

The United States holds itself accountable to the same standards by which we judge others. For the first time, this year's TIP Report includes a U.S. ranking as well as a full, candid narrative on U.S. efforts to combat human trafficking. The ranking reflects the contributions of government agencies, public input, and independent research by the Department of State. The United States recognizes that, like other countries, it has a serious problem with human trafficking for both labor and commercial sexual exploitation. The U.S. government takes pride in its best practices to combat the crime of trafficking, recognizes challenges, and seeks continual innovation and strengthening of its efforts at home and in partnership with other countries.

What Is Trafficking in Persons?

Over the past 15 years, “trafficking in persons” or “human trafficking” have been used as umbrella terms for activities involved when one person obtains or holds another person in compelled service. The TVPA describes this compelled service using a number of different terms: involuntary servitude, slavery, debt bondage, and forced labor.

Under the TVPA, a person may be a trafficking victim regardless of whether they once consented, participated in a crime as a direct result of being trafficked, were transported into the exploitative situation, or were simply born into a state of servitude. At the heart of this phenomenon are the myriad forms of enslavement – not the activities involved in international transportation.

Major forms of human trafficking include:

Forced Labor

Recent studies show the majority of human trafficking in the world takes the form of forced labor. The ILO estimates that for every trafficking victim subjected to forced prostitution, nine people are forced to work. Also known as involuntary servitude, forced labor may result when unscrupulous employers exploit workers made more vulnerable by high rates of unemployment, poverty, crime, discrimination, corruption, political conflict, or cultural acceptance of the practice. Immigrants are particularly vulnerable, but individuals also may be forced into labor in their own countries. Female victims of forced or bonded labor, especially women and girls in domestic servitude, are often sexually exploited as well.

Sex Trafficking

Sex trafficking comprises a smaller but still significant portion of overall human trafficking. When an adult is coerced, forced, or deceived into prostitution – or maintained in prostitution through coercion – that person is a victim of trafficking. All of those involved in recruiting, transporting, harboring, receiving, or obtaining the person for that purpose have committed a trafficking crime. Sex trafficking can also occur within debt bondage, as women and girls are forced to continue in prostitution through the use of unlawful “debt” purportedly incurred through their transportation, recruitment, or even their crude “sale” – which exploiters insist they must pay off before they can be free. It is critical to understand that a person’s initial consent to participate in prostitution is not legally determinative: if they are thereafter held in service through psychological manipulation or physical force, they are trafficking victims and should receive the benefits outlined in the Palermo Protocol and applicable domestic laws.

Bonded Labor

One form of force or coercion is the use of a bond, or debt. Often referred to as “bonded labor” or “debt bondage,” the practice has long been prohibited under U.S. law by its Spanish name – *peonage* – and the Palermo Protocol requires its criminalization as a form of trafficking in persons. Workers around the

world fall victim to debt bondage when traffickers or recruiters unlawfully exploit an initial debt the worker assumed as part of the terms of employment. Workers may also inherit debt in more traditional systems of bonded labor. In South Asia, for example, it is estimated that there are millions of trafficking victims working to pay off their ancestors' debts.

Debt Bondage Among Migrant Laborers

Abuses of contracts and hazardous conditions of employment for migrant laborers do not necessarily constitute human trafficking. However, the attribution of illegal costs and debts on these laborers in the source country, often with the support of labor agencies and employers in the destination country, can contribute to a situation of debt bondage. This is the case even when the worker's status in the country is tied to the employer as a guestworker in the context of employment-based temporary work programs.

Involuntary Domestic Servitude

A unique form of forced labor is the involuntary servitude of domestic workers, whose workplace is informal, connected to their off-duty living quarters, and not often shared with other workers. Such an environment, which often socially isolates domestic workers, is conducive to nonconsensual exploitation since authorities cannot inspect private property as easily as they can inspect formal workplaces. Investigators and service providers report many cases of untreated illnesses and, tragically, widespread sexual abuse, which in some cases may be symptoms of a situation of involuntary servitude.

Forced Child Labor

Most international organizations and national laws recognize children may legally engage in certain forms of work. There is a growing consensus, however, that the worst forms of child labor should be eradicated. The sale and trafficking of children and their entrapment in bonded and forced labor are among these worst forms of child labor, and these are forms of trafficking. A child can be a victim of human trafficking regardless of the location of that nonconsensual exploitation. Indicators of possible forced labor of a child include situations in which the child appears to be in the custody of a non-family member who has the child perform work that financially benefits someone outside the child's family and does not offer the child the option of leaving. Anti-trafficking responses should supplement, not replace, traditional actions against child labor, such as remediation and education. However, when children are enslaved, their abusers should not escape criminal punishment by virtue of longstanding administrative responses to child labor practices.

Child Soldiers

Child soldiering can be a manifestation of human trafficking where it involves the unlawful recruitment or use of children – through force, fraud, or coercion – as combatants or for labor or sexual exploitation by armed forces. Perpetrators may be government forces, paramilitary organizations, or rebel groups. Many children are forcibly abducted to be used as combatants. Others are made unlawfully to work as porters, cooks, guards, servants, messengers, or spies. Young girls can be forced to marry or have sex

with male combatants. Both male and female child soldiers are often sexually abused and are at high risk of contracting sexually transmitted diseases.

Child Sex Trafficking

According to UNICEF, as many as two million children are subjected to prostitution in the global commercial sex trade. International covenants and protocols obligate criminalization of the commercial sexual exploitation of children. The use of children in the commercial sex trade is prohibited under both U.S. law and the Palermo Protocol as well as by legislation in countries around the world. There can be no exceptions and no cultural or socioeconomic rationalizations preventing the rescue of children from sexual servitude. Sex trafficking has devastating consequences for minors, including long-lasting physical and psychological trauma, disease (including HIV/ AIDS), drug addiction, unwanted pregnancy, malnutrition, social ostracism, and possible death.

Policy Priorities

Since the issuance of President Bill Clinton's Executive Memorandum on the Trafficking of Women and Children in March 1998, the U.S. government has advocated a policy structured by the "3P" paradigm: prosecution, protection, and prevention.

Prosecution

Trafficking in persons is a crime akin to murder, rape and kidnapping. Criminalization is mandatory for all parties to the Palermo Protocol, and the importance of prosecution is reflected in the U.S. law enforcement approach. Yet the numbers of prosecutions each year are dismally low in comparison to the scope of the problem. Passing modern laws that prohibit all forms of trafficking by focusing on the enslavement of victims rather than the recruitment and transportation of workers or people in prostitution is an important first step in complying with the Palermo Protocol and meeting the TVPA minimum standards. For those laws to have any meaning, however, they must be enforced. As long as there are only around 4,000 trafficking convictions worldwide each year, a message is sent that the injustice suffered by victims is not a national or international priority.

Too often the victims of this crime are perceived to be society's throwaways – prostitutes, runaways, the poor, racial or ethnic minorities, members of a low caste, or recent immigrants. Victims themselves do not know the legal definitions of this crime and should not be required to self-identify. Bias against the vulnerable classes and an inability to envision them as victims affects whether they are identified and whether their traffickers are brought to justice. A narrow focus hinders a robust law enforcement response and allows traffickers to operate with impunity. Moreover, it diminishes the promise of equal protection under the law, undermining basic rule of law principles. All victims should be entitled to see their traffickers brought to justice and to be heard through the legal process. Compassionate and smart prosecution is thus the foundation of a victim-centered approach.

Protection

Just as passage of a law without its enforcement is an empty promise, law enforcement alone without victim protections is an inadequate response. A victim-centered approach does not mean assisting a potential witness just long enough to get his or her testimony; it means meeting needs and fulfilling obligations that extend beyond the confines of a criminal case. Such an approach calls for partnerships between law enforcement agencies and service providers – not just to win the case but as colleagues sharing a humanitarian responsibility to act in the best interest of the victim.

Victim protections conditioned on victims' active role in prosecutions brought by the state also fall far short. In many countries, immigration relief and social services are offered only to victim-witnesses purely as incentives to cooperate. They do not aim to restore the dignity or health of the person who was victimized. Optimally, the response to this human rights abuse should focus on all victims, offering them the opportunity to access shelter, comprehensive services, and in certain cases, immigration relief. Repatriation of foreign victims should not be the first response, but should be undertaken as an informed decision and done so in a manner that serves the best interest of the victim. Detention of the victim is not only at odds with the Palermo Protocol, but is counterproductive to effective rehabilitation and criminal prosecution alike. At its best, victim protection is a series of laws and policies that are broadly funded, understood, and implemented, and that are adaptable on the ground and considerate of victims' needs.

Prevention

While prevention is an important goal, neither the Palermo Protocol nor the TVPA as amended give much guidance in setting forth prevention activities beyond the obvious: public awareness campaigns, addressing root causes, and conducting law enforcement-related or border security activities. A decade later, governments are expanding their understanding of prevention to include policies and practices that cut off modern slavery at the source. This includes initiatives that both combat the demand for commercial sex and ensure that the demand for low prices is balanced by a demand for traceability, transparency, and worker protections throughout the supply chain. Governments, corporations, and consumers can come together to ensure that free trade means labor that is freely offered because of fair compensation, rather than labor taken for free.

Prevention must address key vulnerabilities in legal systems: policies and implementation loopholes that allow trafficking to occur, tolerance within government procurement and contracting, unscrupulous labor recruiting companies, restrictive visa practices used as coercive tools, and lax enforcement of labor laws. Effective prevention lies in targeted initiatives to protect the rights of marginalized, low-income workers, such as domestic servants, farm workers, miners, and garment workers. These workers are too often subjected to offenses that span a continuum of labor exploitation, including at its worst, human trafficking.

Prevention also can and should harness the economic impetus for this crime in order to fight it – by increasing criminal or civil penalties for companies that directly rely on forced labor in the production of goods or services.

Partnerships

Combating human trafficking requires the expertise, resources and efforts of many individuals and entities. It is a complex, multifaceted issue requiring a comprehensive response of government and nongovernment entities in such areas as human rights, labor and employment, health and services, and law enforcement. It requires partnerships among all these entities to have a positive impact.

Partnerships augment efforts by bringing together diverse experience, amplifying messages, and leveraging resources, thereby accomplishing more together than any one entity or sector would be able to alone. Examples of existing partnerships governments use to facilitate prosecution, prevention, and protection include:

- task forces among law enforcement agencies that cooperate to share intelligence, work across jurisdictions, and coordinate across borders;
- alliances between governments and business associations that seek to craft protocols and establish compliance mechanisms for slavery-free supply chains; and,
- regional partnerships among nations, such as the antihuman trafficking efforts of the Organization of American States (OAS) or the European Union (EU).

Outside the government, partnerships include coalitions of nongovernmental organizations (NGOs) coming together for purposes of advocacy, service provision, and information sharing, and networks of survivors, whose experiences inform the broader trafficking movement.

While there is broad agreement on the purpose and benefits of a partnership approach to human trafficking, there is less agreement on and documentation of proven, successful strategies – something all should endeavor to create and share in the years ahead.

Dismantling the “3D” Approach to Human Trafficking

In the 10 years since the passage of the Palermo Protocol with its “3P” paradigm of prevention, protection and prosecution, a competing, more unfortunate, paradigm seems to persist in impeding greater anti-trafficking progress: the “3D” phenomenon of **detention**, **deportation** and **disempowerment**.

The use of this approach in detaining and deporting trafficking victims is most often the outgrowth of immigration policies or archaic laws that have yet to fully appreciate the phenomenon of modern slavery. However, some of the manifestations of this response are new, appearing only in the last few years and affecting many more women than men.

In such a response, governments may act out of self interest in ridding themselves of potential burdens. Or they may act in what they claim is the best interest of foreign victims. This usually includes detaining the victims for a short period of time and then deporting them to their country of origin without offering them credible opportunities to seek legal redress (including civil restitution), adequate psychological repair, longer term residency and work, or relocation to a third country. Attempts to hold identified trafficking victims in detention-based facilities governments describe as “shelters” – no matter how comfortable and safe they may be – disempower victims at a critical time when they need a restored sense

of individual freedom. Detention models undercut any rapport service providers or investigators might build with victims. Research and law enforcement practice indicates that initial trauma lasts for months and that victims can only give a partial account of their experiences in the early stages of an investigation; a response based on detention and repatriation – even if initial statements have been reduced to video or affidavit – will likely prevent law enforcement from arriving at critical facts.

Sending victims back to their countries of origin without informing them of a full range of options not only exposes them to possible trauma associated with being identified as a trafficking victim, but it also risks returning them to the same condition and exposing them to the same or even more enhanced pressures that contributed to their initial trafficking experience, thus raising the prospects for their re-trafficking. Furthermore, when a country jails and repatriates victims without screening or protection, NGOs are deterred from bringing their clients to the government's attention.

2010 TIP Report Methodology

The Department of State prepared this report using information from U.S. embassies, government officials, NGOs and international organizations, published reports, research trips to every region, and information submitted to **tipreport@ state.gov**. This e-mail address allows organizations and individuals to share information on government progress in addressing trafficking.

U.S. diplomatic posts and domestic agencies reported on the trafficking situation and governmental action based on thorough research that included meetings with a wide variety of government officials, local and international NGO representatives, officials of international organizations, journalists, academics, and survivors. Every U.S. mission overseas employs at least one officer covering human trafficking issues.

Tier Placement

The Department places each country in the 2010 TIP Report onto one of three tiers as mandated by the TVPA. This placement is based more on the extent of government action to combat trafficking than on the size of the problem, although the latter is also an important factor. The analyses are based on the extent of governments' efforts to reach compliance with the TVPA's minimum standards for the elimination of human trafficking. While Tier 1 is the highest ranking, it does not mean that a country has no human trafficking problem. On the contrary, a Tier 1 ranking indicates that a government has acknowledged the existence of human trafficking, has made efforts to address the problem, and meets the TVPA's minimum standards. Each year, governments need to demonstrate appreciable progress in combating trafficking to maintain a Tier 1 ranking. Indeed, Tier 1 represents a responsibility rather than a reprieve.

Tier rankings and narratives in the 2010 TIP Report reflect the following:

- enactment of laws prohibiting severe forms of trafficking in persons, as defined by the TVPA, and provision of criminal punishments for trafficking offenses;

- implementation of human trafficking laws through vigorous prosecution of the prevalent forms of trafficking in the country;
- victim protection efforts that include access to services and shelter without unnecessary detention and with legal alternatives to removal to countries in which the victim would face retribution or hardship;
- proactive victim identification measures with systematic procedures to guide law enforcement and other governmental or government-supported front-line responders in the process of victim identification;
- criminal penalties prescribed for human trafficking offenses with a maximum of at least four years' deprivation of liberty, or a more severe penalty;
- the extent to which a government ensures the safe, humane, and to the extent possible, voluntary repatriation and reintegration of victims;
- government funding and partnerships with NGOs to provide victims with access to primary health care, counseling, and shelter, allowing them to recount their trafficking experiences to trained social counselors and law enforcement at a pace with minimal pressure;
- governmental measures to prevent human trafficking, including efforts to curb practices identified as contributing factors to human trafficking, including employers' confiscation of foreign workers' passports or allowing labor recruiters to charge excessive fees to prospective migrants – factors shown to contribute to forced labor; and,
- the extent to which a government ensures victims are provided with legal and other assistance and that, consistent with domestic law, proceedings are not prejudicial against victims' rights, dignity, or psychological well being.

Tier rankings and narratives are NOT affected by the following:

- efforts, however laudable, undertaken exclusively by nongovernmental actors in the country;
- public awareness events – government-sponsored or otherwise – lacking concrete ties to prosecution of traffickers, protection of victims, or prevention of trafficking; and,
- broad-based development or law enforcement initiatives without a discrete human trafficking focus.

A Guide to the Tiers

Tier 1

Countries whose governments fully comply with the TVPA's minimum standards for the elimination of trafficking.

Tier 2

Countries whose governments do not fully comply with the TVPA's minimum standards but are making significant efforts to bring themselves into compliance with those standards.

Tier 2 Watch List

Countries whose governments do not fully comply with the TVPA's minimum standards, but are making significant efforts to bring themselves into compliance with those standards AND:

- a) the **absolute number of victims** of severe forms of trafficking is very significant or is significantly increasing;
- b) there is a **failure to provide evidence of increasing efforts** to combat severe forms of trafficking in persons from the previous year, including increased investigations, prosecution, and convictions of trafficking crimes, increased assistance to victims, and **decreasing evidence of complicity** in severe forms of trafficking by government officials; or,
- c) the determination that a country is making significant efforts to bring themselves into compliance with minimum standards was based on **commitments by the country to take additional steps over the next year**.

Tier 3

Countries whose governments do not fully comply with the minimum standards and are not making significant efforts to do so.

The TVPA lists three factors by which to determine whether a country should be on Tier 2 (or Tier 2 Watch List) versus Tier 3: (1) the extent to which the country is a country of origin, transit, or destination for severe forms of trafficking; (2) the extent to which the country's government does not comply with the TVPA's minimum standards and, in particular, the extent to which officials or government employees have been complicit in severe forms of trafficking; and (3) what measures are reasonable to bring the government into compliance with the minimum standards in light of the government's resources and capabilities to address and eliminate severe forms of trafficking in persons.

As a result of amendments made by the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (TVPRA of 2008), any country that has been ranked Tier 2 Watch List for two consecutive years (beginning from the time of the 2009 report) and that would otherwise be ranked Tier 2 Watch List for the next year will instead be ranked Tier 3 for the next year, unless the president waives application of this provision based on a determination that, among other things, the government has a written plan for meeting the TVPA's minimum standards.

Penalties for Tier 3 Countries

Pursuant to the TVPA, governments of countries on Tier 3 may be subject to certain sanctions, whereby the U.S. government may withhold nonhumanitarian, non-trade-related foreign assistance. Such assistance may be withdrawn from countries receiving it, and in addition, countries on Tier 3 may not receive funding for government employees' participation in educational and cultural exchange programs. Consistent with the TVPA, governments subject to sanctions would also face U.S. opposition to assistance (except for humanitarian, trade-related, and certain development-related assistance) from international financial institutions such as the International Monetary Fund (IMF) and the World Bank.

Imposed sanctions will take effect on October 1, 2010; however, all or part of the TVPA's sanctions can be waived if the president determines that the provision of such assistance to the government would promote the purposes of the statute or is otherwise in the national interest of the United States. The TVPA also provides for a waiver of sanctions if necessary to avoid significant adverse effects on vulnerable

populations, including women and children. Sanctions would not apply if the President finds that, after this report is issued but before sanctions determinations are made, a government has come into compliance with the minimum standards or is making significant efforts to bring itself into compliance.

No tier ranking is permanent. Every country can do more, including the United States. All countries must maintain and increase efforts to combat trafficking.

CONGO, DEMOCRATIC REPUBLIC OF THE (Tier 3)

The Democratic Republic of the Congo (DRC) is a source and destination country for men, women, and children subjected to trafficking in persons, specifically conditions of forced labor and forced prostitution. The majority of this trafficking is internal, and much of it is perpetrated by armed groups and government forces outside government control within the country's unstable eastern provinces. A significant number of unlicensed Congolese artisanal miners – men and boys – are exploited in situations of debt bondage by businessmen and supply dealers from whom they acquire cash advances, tools, food, and other provisions at inflated prices, and to whom they must sell the mined minerals at prices below the market value. The miners are forced to continue to work to repay constantly accumulating debts that are virtually impossible to repay. In North Kivu, South Kivu, and Katanga Provinces, armed groups and Congolese national army (FARDC) troops reportedly use threats and coercion to force men and children to mine for minerals. A number of policemen in eastern DRC reportedly arrested people arbitrarily in order to extort money from them; those who could not pay were forced to work until they had “earned” their freedom. Congolese girls are forcibly prostituted in tent- or hut-based brothels or informal camps – including in markets and mining areas – by loosely organized networks, gangs, and madams. Congolese women and children are exploited internally in conditions of involuntary domestic servitude and taken, in smaller numbers, to Angola, South Africa, Republic of the Congo, and European nations for commercial sexual exploitation. Some members of Batwa, or pygmy groups, are subjected to conditions of involuntary servitude in agriculture, mining, and domestic work in eastern DRC.

Indigenous and foreign armed militia groups, notably, the Democratic Forces for the Liberation of Rwanda (FDLR), Patriotes Résistants Congolais (PARECO), various local militia (Mai-Mai), the *Alliance des patriots pour un Congo libre et souverain* (APCLS), and the Lord's Resistance Army (LRA), continued to abduct and forcibly recruit Congolese men, women, and children to serve as laborers, porters, domestics, combatants, and in sexual servitude. In 2009, the LRA continued operations in areas in and near the DRC's Orientale Province, violently abducting more than 1,700 Congolese citizens, including children; some of these abductees were later taken to southern Sudan or Central African Republic. Likewise, abducted Sudanese and Central African citizens experienced conditions of forced labor and sexual servitude at the hands of the LRA after being forcibly taken to the DRC.

In 2009, the FARDC resumed recruitment, at times through force, of children for use as combatants, escorts, and porters, a practice which observers believed to have ended by 2008. From November 2008 to October 2009, 623 confirmed cases of unlawful child soldier recruitment were attributed to the FARDC, 75 percent of which were attributable to ex-CNDP (National Congress for the Defense of the People, a former Congolese rebel group) elements absorbed into the FARDC in 2009. In April 2009, for example, 100 children, ages 13 to 15, were recruited by the FARDC along the Bunyakiri-Hombo axis. An unspecified number of children recruited by the CNDP during past reporting periods remain within integrated FARDC units. In addition, FARDC elements pressed hundreds of civilians, including children, into forced labor to carry ammunition, supplies, and looted goods, to fetch water and firewood, to serve as guides, or to construct military facilities and temporary huts. Those who resisted were sometimes killed; others died under the weight of their heavy loads.

The Government of the Democratic Republic of the Congo does not fully comply with the minimum standards for the elimination of trafficking and is not making significant efforts to do so. The government did not show evidence of progress in prosecuting and punishing labor or sex trafficking offenders, including members of its own armed forces; providing protective services for the vast majority of trafficking victims; or raising public awareness of human trafficking. In addition, the government's anti-trafficking law enforcement efforts decreased during the reporting period. Elements of the national army perpetrated severe human trafficking abuses during the year, including forcibly recruiting hundreds of

children and using local populations to perform forced labor; some army commanders blocked efforts to remove children from their units. Furthermore, a number of FARDC commanders accused of child soldiering and forced labor abuses in previous reporting periods remained in leadership positions within the army and were not investigated, disciplined in any way, or brought to trial. Therefore, the Democratic Republic of the Congo is placed on Tier 3. The government continued to lack sufficient financial, technical, and human resources to effectively address trafficking crimes and provide basic levels of security and social services in most parts of the country. The military lacked the capacity to demobilize armed groups or adequately prevent the trafficking violations committed by members of its own forces. The country's criminal and military justice systems, including the police, courts, and prisons were practically nonexistent; there were few functioning courts or secure prisons in the country. Some advances, however, were noted during the reporting period in demobilizing children from fighting factions, including from the national army, and in sensitizing military officials about the illegality of committing forced labor abuses.

Recommendations for the Democratic Republic of the Congo: Investigate and punish military and other law enforcement personnel accused of unlawfully conscripting child soldiers or using local populations to perform forced labor, including for mining of minerals; increase efforts to prosecute and punish, as appropriate, non-military trafficking offenders, particularly those who conscript child soldiers, utilize forced labor, or control children in prostitution; cease the FARDC's conscription of child soldiers and demobilize all children from the FARDC's ranks; develop a legislative proposal to comprehensively address all forms of human trafficking, including labor trafficking; in partnership with NGOs or religious entities, ensure the provision of short-term protective services to child trafficking victims; and take steps to raise awareness about human trafficking among the general population.

Prosecution

The government made little progress in investigating or prosecuting suspected trafficking offenders during the reporting period. The government's judicial writ did not cover many areas of the country where human trafficking occurs, and it remained hamstrung by a critical shortage of magistrates, clerks, and lawyers. Corrupt officials allegedly embezzled meager financial resources from government agencies responsible for combating human trafficking, further disabling the government from pursuing training, capacity building, or victim assistance. In February and March 2010, the government recruited 2,000 new magistrates, who will be appointed and receive training during the upcoming reporting period. Existing laws do not prohibit all forms of labor trafficking; however, the July 2006 sexual violence statute, Law 6/018, specifically prohibits sexual slavery, sex trafficking, child and forced prostitution, and pimping, prescribing penalties for these offenses of 10 to 20 years' imprisonment. These penalties are sufficiently stringent and commensurate with those prescribed for rape. The Child Protection Code (Law 09/001) which criminalizes and prescribes penalties of five to 20 years' imprisonment for child slavery and trafficking, child commercial sexual exploitation, and the enlistment of children into the armed forces – was published in May 2009. However, it remains unimplemented and without the necessary budget.

During the reporting period, child protection police in Bukavu arrested a Congolese woman for allegedly tricking a 13-year-old Congolese girl into accompanying her to Burundi, where she intended to force the girl into prostitution; police transmitted her dossier to the Bukavu court for prosecution in February 2010. The status of the March 2009 case involving the arrest of a Bukavu nightclub owner for allegedly prostituting 10 girls and seven boys in his facility is unknown; the nightclub has reopened. In June 2009, a military tribunal in Kisangani convicted five Mai-Mai members of, among other things, crimes against humanity; these defendants were also initially charged with, but not convicted of, perpetrating acts of forced labor against local populations. Bedi Mubuli Engangela (a.k.a. *Colonel 106*), a former Mai-Mai commander suspected of insurrection and war crimes, including the conscription of children, appeared before a military tribunal in early 2010 and remains in detention at Malaka Prison in Kinshasa; the court awaits the conclusion of the investigation before setting a trial date.

Unlike in previous reporting periods, the government neither brought charges against nor prosecuted any individual suspected of conscripting or using child soldiers. In November 2009, the UN Group of Experts on the DRC published the names of 21 current FARDC commanders alleged to have committed human rights abuses; 13 are implicated in the unlawful recruitment and use of child soldiers and three are alleged to have obtained or maintained the forced labor of local populations. Lieutenant Colonel Jean-Pierre Biyoyo, formerly of the Mudundu-40 armed group and the first person convicted by Congolese courts of conscripting children, has not been re-apprehended since his escape from prison in June 2006 and is currently serving as the Commander of FARDC's Sector 3 of the *Amani Leo* campaign in Walungu, South Kivu. "Captain Gaston," an armed group commander allegedly responsible for the mid-2006 murder of an NGO child protection advocate, remained at large in Kitshanga, North Kivu during the reporting period; his January 2007 arrest warrant has not been executed and, after being promoted by the FARDC to the rank of Major, he is leading a FARDC battalion between Ngungu and Karuba.

Protection

The government assisted in the identification and demobilization of child soldiers during the reporting period, but offered minimal protection to other types of trafficking victims; NGOs provided nearly all of the shelter, legal, medical, and psychological services available to trafficking victims. The government lacked procedures for proactively identifying victims of trafficking among vulnerable groups or referring victims to protective services. Under the National Disarmament, Demobilization, and Reintegration Plan, all ex-combatants, including child soldiers, pass through a common process during which they disarm and receive information about military and civilian reintegration options. During this process, the National Demobilization Agency (UEPN-DDR), in cooperation with the UN Mission to the DRC (MONUC), separated and transported any identified children to NGO-run centers for temporary housing and vocational training; 2,816 children were demobilized from armed groups, including the FARDC, through this process in 2009. With the assistance of FARDC commanders, a local NGO demobilized 119 children from FARDC units in South Kivu during the first quarter of 2010; while some of these child soldiers were part of FARDC forces that were fighting in North Kivu in 2008, most of the children originated from former armed groups that had integrated into the FARDC. While the FARDC high command was generally supportive of MONUC's efforts to remove children from its forces during the reporting period, it lacked sufficient command and control to compel many FARDC commanders to comply with standing orders to release their child soldiers, or to prevent ground troops from recruiting additional children or subjecting local populations to forced labor. Certain FARDC commanders actively blocked efforts by MONUC to separate children from their ranks and some FARDC elements continued to harass, arrest, and physically mistreat children formerly associated with armed groups, including potential trafficking victims. In March 2010, a local NGO trained over 200 FARDC officers on the rights and protection of children in South Kivu; they also educated police, local authorities, and local youth throughout the province on child rights and international and national legislation related to trafficking between January and April 2010.

Although the national government did not address forced labor in the mining sector, provincial Ministries of Education in Orientale, Kasai Oriental, and Katanga coordinated with NGOs to reintegrate children working in mines into the formal education system. Katanga's provincial Ministry of Interior continued to provide funding for the *Kasapa* residential "welcome center" in Lubumbashi to provide street children, including trafficking victims, with protective services and educational programming; it is unknown whether this center provided protective services to trafficking victims in 2009. Government officials recognized the growing problem of child prostitution in the DRC, though authorities have yet to take concrete action against it. The government did not show evidence of encouraging victims to assist in investigations against their traffickers. It offered no legal alternatives to the removal of foreign victims to countries in which they may face hardship or retribution; there are, however, few foreign trafficking victims within the DRC and the government has consistently allowed for the safe repatriation of foreign

child soldiers in cooperation with MONUC.

Prevention

While the government initiated awareness raising efforts against human rights abuses, including forced labor, committed by its own forces during the year, it made no significant efforts to prevent other forms of human trafficking. The Ministry of Human Rights drafted, but did not disseminate, a document on the country's current trafficking situation, including challenges to addressing it and recommendations for action. In July 2009, the FARDC's Goma headquarters issued a press statement reminding all soldiers and commanders of their duty to protect the civilian population and noted "zero tolerance" for human rights abuses, specifically citing the crime of forced labor, among others. The notice warned commanders that they would be held accountable for actions committed by troops under their command; this notice was not enforced with concrete law enforcement action. In April 2010, Major Andoga, of the 1331th Battalion, conducted a sensitization campaign on human rights violations and the military's zero tolerance policy in both Kinshasa and the eastern provinces. Although the National Ministry of Labor is responsible for investigating forced child labor and it employs 150 inspectors nationwide, the ministry did not conduct any forced child labor investigations in 2009; inspectors often lacked means of transport or resources to carry out their work. The provincial Ministry of Labor in Katanga participated in a tripartite dialogue with unions and mining companies on the effect of the financial crisis on youth labor; the dialogue achieved no meaningful outcomes. Newly established provisional Worst Forms of Child Labor Committees in Katanga, Kasai Orientale, and Orientale (Ituri District) Provinces – comprised of staff from various provincial ministries and community members – developed annual work plans for 2010. With UNICEF funding, the members of the Katanga committee researched, drafted, and printed a brochure on its mandate that was distributed to local authorities, religious and traditional leaders, and community organizations as part of an awareness raising campaign. The Kasai Orientale committee met with the governor and provincial assembly, after which the governor committed the provincial government to fighting child labor and establishing secondary schools. The government did not take any known measures during the reporting period to reduce the demand for forced labor or commercial sex acts.